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| 9 | BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA | |
| 10 | | |
| 11 | STATE OF CAL | AFORNIA |
| 12 | In the Matter of the Accusation Against: | Case No. 2009-15 |
| 13 | LINDA MARIE BARNES, aka LINDA MARIE PAPE, aka | ACCUSATION |
| 14 | LINDA MARIE YOUNG 11070 Rosemary Drive | ACCUSATION |
| 15 | Auburn, California 95603 | |
| 16 | Registered Nurse License No. RN 371052 | |
| 17 | Respondent. | |
| 18 | | |
| 19 | Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges: | |
| 20 | <u>PARTIES</u> | |
| 21 | 1. Complainant brings this Accusation solely in her official capacity as the | |
| 22 | Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer | |
| 23 | Affairs. | |
| 24 | <u>License History</u> | |
| 25 | 2. On or about March 31, 1984, the Board issued Registered Nurse License | |
| 26 | Number RN 577270 ("license") to Linda Marie Barnes, also known as Linda Marie Pape and | |
| 27 | Linda Marie Young ("Respondent"). The license will expire on September 30, 2009, unless | |
| 28 | renewed. | |
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STATUTORY PROVISIONS

- 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
 - 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
- 5. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
 - 6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, ...
- (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.
- 7. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

9. Respondent is subject to disciplinary action under Code section 2761, subdivision (f), in that on or about February 5, 2008, in the Superior Court of California, County of Placer, in the case entitled, *People of the State of California v. Linda Marie Barnes, aka Linda Marie Pape, Linda Marie Young* (Super Ct. Auburn County, 2007, Case No.62-73596), Respondent was convicted on her plea of nolo contendere of violating Vehicle Code sections 23152, subdivision (a) (Driving Under the Influence of Alcohol and/or Drugs) and 23152, subdivision (b) (Driving While Having a .08% or Higher Blood Alcohol Content), both misdemeanors, with admissions of violating Vehicle Code section 23538, subdivision (b)(2) (First Offender with B.A.C. of 20% or More). The circumstances of the crime are that on or about August 20, 2007, Respondent did unlawfully, while under the influence of alcohol and a drug, and under their combined influence, drive a vehicle with a .28% or higher B.A.C. Such crime is substantially related to the functions, duties, and qualifications of a registered nurse.

SECOND CAUSE FOR DISCIPLINE

(Use an Alcoholic Beverage and/or a Drug in a Manner Dangerous or Injurious)

10. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), in that Respondent used an alcoholic beverage and/or a drug to an extent or in a

manner dangerous or injurious to herself, any other person, or to the public, as set forth in 1 2 paragraph 9, above. The circumstances include that while operating her vehicle in an intoxicated 3 state, Respondent collided with and damaged no less than eleven (11) vehicles parked in the 4 Kaiser parking facility. The impacts in some collisions were of sufficient magnitude to move the 5 vehicles sideways and resulting in damage described by the investigating police officer as major. 6 7 THIRD CAUSE FOR DISCIPLINE 8 (Criminal Conviction Involving the Consumption of Alcohol and/or a Drug) 9 11. Respondent is subject to disciplinary action under Code section 2761, 10 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, 11 subdivision (c), in that Respondent was convicted of crimes involving the consumption of an 12 alcoholic beverage and/or a drug, as set forth in paragraph 9, above. The circumstances include 13 admissions made by the Respondent that she was an alcoholic and had consumed alcohol 14 knowing she would have to operate a motor vehicle. 15 **PRAYER** 16 WHEREFORE, Complainant requests that a hearing be held on the matters herein 17 alleged, and that following the hearing, the Board of Registered Nursing issue a decision: 18 1. Revoking or suspending Registered Nurse License Number RN 371052 19 issued to Linda Marie Barnes, also known as Linda Marie Pape and Linda Marie Young; 20 2. Ordering Linda Marie Barnes, also known as Linda Marie Pape and Linda 21 Marie Young to pay the Board the reasonable costs of the investigation and enforcement of this 22 case, pursuant to Code section 125.3; and, 23 3. Taking such other and further action as deemed necessary and proper. 24 25 26

> Board of Registered Nursing Department of Consumer Affairs

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State of California Complainant

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